



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,402	09/10/2003	Eric G. Lott	LOTA101	5840

7590 06/27/2005

FRANK J. DYKAS
DYKAS, SHAVER & NIPPER, LLP
P.O. Box 877
Boise, ID 83701-0877

EXAMINER

GREEN, CHRISTY MARIE

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,402

Applicant(s)

LOTT, ERIC G.

Examiner

Christy M. Green

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 11 and 13-16 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a second office action for serial number 10/660402, entitled Engineered lumber studs for interior wall construction, filed on September 10, 2003.

Response to Amendment

In response to the examiner's office action dated December 10, 2004, the applicant has cancelled claim 12 and amended claims 10 and 13..

Claim Objections

Claims 13-16 are objected to because of the following informalities: It has been held that to be entitled to weight in method claims, the recited structural limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Taraba et al., US patent # 5,701,708.

Taraba discloses the claimed invention an engineered lumber stud (figure 2) comprising a first skin piece (58) positioned generally parallel to a second skin piece (60), said first and second skin pieces attaching to and interconnected by a foam core piece (56) positioned there-between (column 3, lines 44-46); at least one of said first

Art Unit: 3635

and second skin pieces (58,60) is comprised of a lumber panel (column 3, lines 40-41) and oriented strand board (column 3, lines 40-42).

Claims 1, 6-9, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Henley et al., US patent # 4,852,310.

Henley discloses the claimed invention an engineered lumber stud (figure 24) comprising a first skin piece (63) positioned generally parallel to a second skin piece (65), said first and second skin pieces attaching to and interconnected by a foam core piece (67) positioned there-between (column 7, lines 26-31); the stud defines a channel defined by the first skin piece and the second skin piece and the foam core (where 61 points to); the channel configured to receive at least one top (at 54) and bottom (at 90) plate or spacer (at 71).

Regarding claims 10 and 11, Henley further discloses a wall panel (figure 24) comprising a plurality of spatially positioned, generally parallel lumber studs (at 63 and 69); each of the studs define a first and second channel within the top and bottom portions of the stud (at 61 and where 90 lies) defined by first and second skins (63, 65) and foam core (67).

Claims 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Aizawa, US patent # 4,044,182.

Aizawa discloses the claimed invention a method of building an lumber stud comprising the steps of creating a panel body (A), making a plurality of cuts through first and second skins (column 4, lines 65-68).

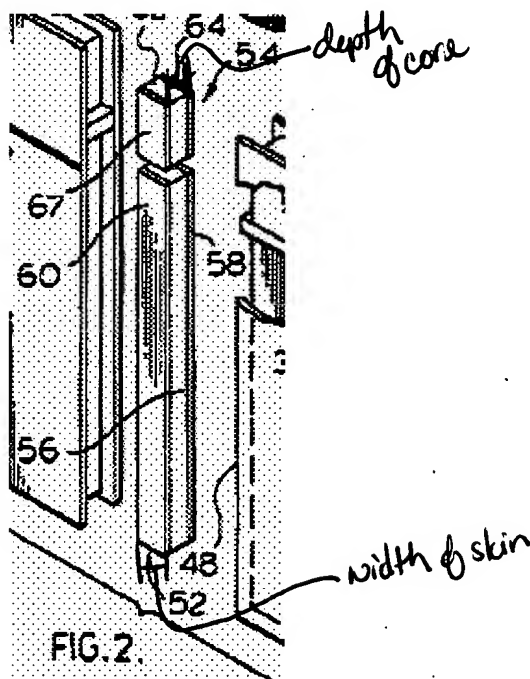
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taraba et al in view of Petersen, US Patent # 4,224,774.

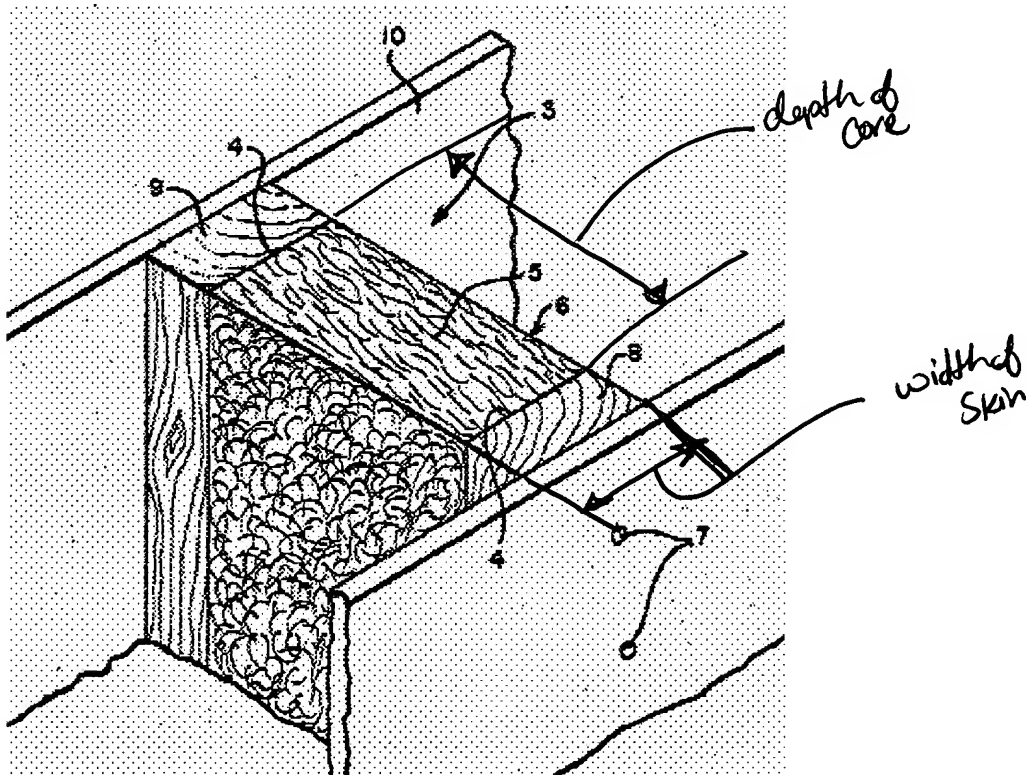
Taraba discloses the claimed invention as stated above in claim 1, including the first and second skin pieces define a width and the foam core piece defines a depth (see figure below). Taraga does not disclose the depth being greater than the width.



Petersen teaches that it is known in the art to provide an engineered lumber stud (3) with a first and second skin (8 and 9) of lumber (column 2, lines 41-42) with a foam core piece positioned therebetween (5, 6) and that the depth of the foam is greater than

Art Unit: 3635

the width of the skins (see figure on next page). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the dimensions of core and skins as taught by Petersen with the stud of Taraba in order to increase the depth of the walls of the wooden frame buildings (column 1, lines 54-56).



Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taraba et al in view of Henley, US Patent # 4,852,310.

Taraba discloses the claimed invention as stated above in claim 1, except for the foam core comprises expanded polystyrene foam. Henley teaches that it is known in the art to provide a foam core (66 – figure 2b) to comprise expanded polystyrene. It would have been obvious at the time the invention was made to provide the polystyrene foam core as taught by Henley with the foam core of Taraba in order to provide a more

Art Unit: 3635

dense type of foam (column 6, lines 11-12) which would ultimately provide a more heavily insulated wall structure.

Response to Arguments

Applicant's arguments with respect to claims 1-11 and 13-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M. Green whose telephone number is 571-272-6844. The examiner can normally be reached on M,T,TH 10:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cg

June 9, 2005


Carl D. Friedman
Supervisory Patent Examiner
Group 3600

Application/Control Number: 10/660,402

Art Unit: 3635

Page 7